

ARTICLE 5

ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

5-1 ADMINISTRATION AND ENFORCEMENT - The Director of the Division of Planning, and the Director's authorized agent of the Lexington-Fayette Urban County Government, shall administer and enforce this Zoning Ordinance, except where other Divisions of the Lexington-Fayette Urban County Government have been assigned such responsibility as provided herein. The Director, or the Director's authorized agent, shall promptly investigate all written complaints of violations and record all findings and actions in the official records, which shall be available in the Offices of the Division holding enforcement responsibility. The Director shall use the best efforts to prevent violations. If the Director, or the Director's agent, finds any of the provisions of this Zoning Ordinance are being violated, the Director, or the Director's agent, may cite the violator to district court, may assess civil penalties through an administrative process, may seek a restraining order or injunctive relief, may order the stoppage of work which is determined to have created or contributed to conditions that pose a threat to the public health, safety or welfare, or may order the action necessary to correct the violation and to enforce the provisions of the Zoning Ordinance. The Director shall make records of all official actions relating to the administration and enforcement of the provisions of this Zoning Ordinance, including, but not limited to, written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto, and the final disposition of all such matters.

5-1(a) RIGHT OF ENTRY - The Director or his authorized agent is authorized to enter upon property, land, structures or buildings, at reasonable times for the purpose of inspecting, ascertaining and causing to be corrected, any violation of this Zoning Ordinance. The Director is hereby empowered to prescribe, adopt, promulgate and enforce reasonable rules, regulations, and/or guidelines pertaining to administrative inspections of properties for zoning violations which are not otherwise inconsistent with the Zoning Ordinance and constitutional restrictions of unreasonable searches and seizures. Whenever the Director or his authorized agent is denied entrance to any property, land, structure or building, he may apply to the district court for a warrant allowing entrance and inspection. This authority shall apply to the interior of occupied, private dwellings only when the inspecting agent has reason to believe that a zoning violation exists in the dwelling.

5-2 PERMITS REQUIRED FOR CONSTRUCTION, DEMOLITION, AND LOCATION OF STRUCTURES - Permits shall be required for the following activities and shall

be issued by the designated Division in conformity with the provisions of this Zoning Ordinance.

5-2(a) ZONING COMPLIANCE PERMIT - After January 1, 2012, no building or premises shall be occupied for any use, nor any use be changed, unless a zoning compliance permit has been issued by the Division of Planning. Such permits shall not be required for agricultural uses as defined in KRS, single family or two-family residences; however, this provision shall not be construed as to exempt such uses from the requirements of the Zoning Ordinance, conditional zoning restrictions, development plan restrictions, or other similar duly enacted restrictions.

5-2(b) BUILDING PERMITS - No building or other structures shall be erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a building permit therefore, issued by the Division of Building Inspection.

5-2(c) WRECKING PERMITS - No building or other structures shall be razed, demolished or removed, either entirely or in part; nor shall any of said activities be commenced without a wrecking permit, issued by the Division of Building Inspection, and any required land disturbance permit has been obtained from the Division of Engineering.

5-2(d) LAND DISTURBANCE PERMITS - Land Disturbance permits shall be required as provided in Chapter 16 of the Code of Ordinances.

5-2(e) MOBILE HOME LOCATION PERMITS - Prior to any placement or relocation of any mobile home, a location permit shall be issued by the Division of Building Inspection for determination of compliance with this Zoning Ordinance and the provisions of KRS 100.203(4)(a)(b).

5-2(f) SIGN PERMITS - No sign shall be created, erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a permit therefore, issued by the Division of Building Inspection.

5-2(g) PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT - The Divisions of Planning and Building Inspection shall issue permits in conformance with the written authorization of the Board of Adjustment concerning administrative review appeals, conditional use permit appeals, variance appeals, or other appeals as authorized in this Zoning Ordinance.

5-2(h) SANITARY SEWER CAPACITY PERMIT - No development shall commence without a permit from the Division of Water Quality, in conformance with the LFUCG Capacity Assurance Program, documenting that adequate sanitary sewer service is available.

5-2(i) OTHER PERMITS - Additional permits may be required by the responsible Divisions to enforce the provisions of this Ordinance.

5-3 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state and federal codes, statutes and regulations.

5-4 PERMIT APPLICATION REQUIREMENTS AND PROCEDURES - All applications for permits shall be accompanied by such plans and information as the responsible Division deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. After reviewing the application materials, the Director of the responsible Division shall mark the application either as "Approved" or "Disapproved" and attest to the same by signature on such copy. The original, similarly marked, shall be retained by the responsible Division.

5-4(a) BUILDING PERMITS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS - All applications for permits for detached single family and two-family dwellings and their accessory buildings shall be accompanied by plans showing the location and dimension of any existing or proposed principal or accessory buildings on the lot; the location and dimension of all required yards; height of the building; and the location and dimension of the required parking, as well as any other information deemed necessary by the Division of Building Inspection to determine compliance with this Zoning Ordinance.

5-4(a)(1) DIVISION OF ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Engineering has approved an erosion control plan.

5-4(b) BUILDING PERMITS FOR ALL OTHER BUILDINGS - All applications for building permits, including associated paving permits, other than those for single family or two-family dwellings and their accessory buildings, shall be accompanied by a site plan, drawn to scale, showing information with regard to the lot and neighboring lots as may be necessary to determine compliance with the Zoning Ordinance and the Code of Ordinances. No building permit application shall be accepted by the Division of Building Inspection until the Division of Planning has approved the site plan, upon finding that the development proposed thereon complies with all applicable requirements of the Subdivision Regulations and the Zoning

Ordinance. The following additional requirements shall be applicable to site plans required under this section:

5-4(b)(1) DIVISION OF ENGINEERING - The building permit shall not be issued unless and until all required information has been submitted to the Division of Engineering as it relates to storm drainage, erosion and sediment control, and sanitary sewers. Off-site improvements may be required if an adequate drainage outfall is not available to the site. The site plan shall include sufficient existing and proposed site elevations to demonstrate that damage to adjacent properties shall not occur, or that an existing off-site problem will not be aggravated. Storm drainage detention on the lot in conformance with the Stormwater Manual will be required, if not provided as a part of the subdivision development.

5-4(b)(2) DIVISION OF TRAFFIC ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Traffic Engineering has approved the site plan as it relates to access point design details and parking lot circulation layout.

5-4(b)(3) OTHER APPROVALS - If this Zoning Ordinance or the Code of Ordinances requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.

5-4(b)(4) DEVELOPMENT PLAN AS SITE PLAN - In any case, where the Planning Commission has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section 5-4(b).

5-4(c) MOBILE HOME LOCATION PERMITS - All applications for mobile home location permits shall be accompanied by plans showing the location of the mobile home, as well as any permanent structure on the lot, the location and dimension of all required yards, and the location and dimension of the required parking.

5-4(d) WRECKING PERMITS - Requirements for wrecking permits in Historic Districts shall be as provided in Article 13. Requirements for wrecking permits in all other zones shall be as provided in the Code of Ordinances.

5-4(e) LAND DISTURBANCE PERMITS - Requirements for land disturbance permits shall be as provided in Chapter 16 of the Code of Ordinances.

5-4(f) SIGN PERMITS - Requirements for sign permits shall be as provided in Article 17.

5-4(g) SATELLITE DISH ANTENNAS - In lieu of a permit to install a satellite dish antenna, the following regulations shall control the installation of satellite dish antennas:

- (1) Within ten (10) days of the completion of the installation of the antenna, the owner of the property shall submit a signed statement to the Division of Building Inspection, specifying the details of the installation so that compliance with this Zoning Ordinance can be determined. In addition, when the antenna is installed by an agent of the property owner, a signed statement of the owner shall be submitted, indicating that a copy of this Ordinance has been provided to the property owner.
- (2) It shall be the responsibility of the property owner to properly install the satellite dish antenna in compliance with all requirements of this Zoning Ordinance.

5-5 CERTIFICATE OF OCCUPANCY REQUIRED - No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the Division of Building Inspection. Such certificates shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of applicable state and local building codes.

5-5(a) TEMPORARY CERTIFICATES OF OCCUPANCY - A temporary certificate of occupancy may be issued by the Division of Building Inspection for a period not exceeding six (6) months during alterations or partial occupancy of a building, pending its completion, in accordance with general rules or regulations concerning such temporary certificate; and with such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public.

5-5(b) CERTIFICATE OF OCCUPANCY FOR EXISTING USES OR STRUCTURES - Upon request from the owner or tenant; and upon inspection to determine the facts in the case, the Division of Building Inspection shall issue a certificate of occupancy for any building, premises or use that is in conformity with the provisions of any applicable building codes, regulations or ordinances.

5-5(c) ZONING PERMIT FOR EXISTING USES OR STRUCTURES - Upon request from the owner or tenant; and upon inspection to determine the facts in the case, the Division of Planning shall issue a zoning permit for any

building, premises or use that is in conformity with the provisions of this Zoning Ordinance or that is a legal non-conforming use as specified in the certificate.

5-6 STRUCTURES AND USES TO BE AS PROVIDED IN ZONING PERMITS, BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY - Zoning permits, building permits or certificates of occupancy, issued on the basis of plans and applications approved by the Division of Building Inspection, authorize only the use, arrangement and construction set forth in such permits, plans and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

5-7 COMPLAINTS REGARDING VIOLATIONS - Whenever a violation of the provisions of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Director of the Division of Planning or the Director's authorized agent. The Director shall initiate an investigation of each case. Complaints involving building code matters shall be referred to the Divisions of Building Inspection or Code Enforcement, depending upon appropriate jurisdiction; or, in the case of land disturbance permits authorized under Chapter 16 of the Code of Ordinances, the complaint shall be referred to the Urban County Engineer or the Urban County Engineer's authorized agent for investigation and, if warranted, enforcement action. The Directors of the Divisions of Planning, Building Inspection, or the Urban County Engineer, or their authorized agents (as appropriate) shall record properly such complaint, immediately investigate, and take action thereon as provided by this Zoning Ordinance.

5-8 PENALTIES FOR VIOLATIONS - Unless otherwise provided herein, violation of the provisions of this Zoning Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute an offense for which the penalty shall be as follows:

- (a) Any person who so violates this Zoning Ordinance or fails to comply with any of its requirements, except as provided in Section 5-8(b) herein below, shall upon conviction thereof be fined not less than \$10, but no more than \$500, for each conviction. Each day of violation shall constitute a separate offense.
- (b) Any person shall, upon conviction, be fined not less than \$100, but no more than \$500, for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer, where such sale or transfer, or contract therefore, constitutes a violation of this Zoning Ordinance.

5-9 CIVIL CITATIONS AND CIVIL PENALTIES - To the extent allowable by law, any violations of this Zoning Ordinance may be enforced through the issuance of a civil citation, pursuant to KRS 65.8801, et seq., as an additional or supplemental means of obtaining compliance. All citations issued pursuant to this Zoning Ordinance shall be issued by the citation officers cited in Section 14-10 of the Code of Ordinances and referred to the Infrastructure Hearing Board with the citations and the civil process to conform to Sections 16-76 through 16-83 of the Code of Ordinances.

5-9(a) ISSUANCE OF A CIVIL CITATION - Prior to the issuance of the first civil citation for a violation of a section of the Zoning Ordinance, the Urban County Government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the Urban County Government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.

5-9(b) APPEALS OF CIVIL CITATIONS - An appeal of the civil citation may be made to the Infrastructure Hearing Board, as provided in Section 16-79 of the Code of Ordinances.

5-9(c) CIVIL PENALTIES - For violations of the Zoning Ordinance, the civil fines associated with the issuance of a civil citation are as follows:

- (1) Upon issuance of the first citation within any 12-month period shall be a maximum of two hundred dollars (\$200.00), but shall be seventy-five dollars (\$75.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.
- (2) The civil fine imposed upon the issuance of the second citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of three hundred dollars (\$300.00), but shall be one hundred fifty dollars (\$150.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.
- (3) The civil fine imposed upon issuance of the third citation for the same section of the Zoning Ordinance within any 12-month period shall be a

maximum of four hundred fifty dollars (\$450.00), but shall be two hundred twenty-five dollars (\$225.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

- (4) The civil fine imposed upon issuance of the fourth or more citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of five hundred dollars (\$500.00), but shall be three hundred dollars (\$300.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

5-9(d) ABATEMENT - When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where damage resulting from continuation of the violation would be irreparable or irreversible; or if the violation represents a continuing public nuisance, the government may, without further notice, proceed to abate the conditions. In the case of a continuing public nuisance, abatement involving the removal of structures or materials shall only take place after a civil citation has been issued and has not been appealed to the Infrastructure Hearing Board, or after an appealed civil citation has been upheld by the Infrastructure Hearing Board. The government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of abatement, including equipment expense; disposal fee, if any; and an administrative fee of seventy-five dollars (\$75.00). The Urban County Government may file a lien for such abatement, in accordance with Section 16-81 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.

5-9(e) ENFORCEMENT - Nothing contained herein shall prohibit the Urban County Government from enforcement of this Zoning Ordinance by any means authorized by law.